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Expedited Procedure under 37 CFR 1.116
Group Art Unit 1646



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: WAX, Martin B. et al. Examiner: O'HARA, E.
Serial No.: 09/591,561 Group Art Unit: 1646
Filed: June 13, 2000
Title: METHODS FOR TREATING GLAUCOMA

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450
Box: AF

COMMUNICATION IN RESPONSE TO OFFICE ACTION

Sir:

This Communication is filed in response to the Office Action dated June 2, 2003, issued by the United States Patent and Trademark Office finally rejecting the claims in connection with the above-identified Application. A response to the Office Action is due September 2, 2003. Applicants are concurrently filing a Petition for One-Month-Extension of Time. Therefore, a response is due October 2, 2003. Accordingly, this Communication is being timely filed.

REMARKS

Claims 1-17 are pending in the subject application. Claims 1, 2, 11-14, 16 and 17 are under examination. Claims 3-10 and 15 have been withdrawn from consideration as being directed to a non-elected invention.

OATH & DECLARATION

In the Office Action, the Examiner asserted that the Oath or Declaration is defective. The Examiner asserted that on page 2 of the Amendment filed March 10, 2003, Applicants stated that they are forwarding a Supplemental Oath and Declaration, claiming benefit under 35 USC 120 to Application Serial No. 09/500,023. According to the Examiner, the

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Supplemental Oath and Declaration has not been received and therefore the objection is maintained.

In response, Applicants point out that a Supplemental Oath and Declaration claiming the benefit under 35 USC 120 to Application Serial No. 09/500,023 was submitted to the United States Patent and Trademarks Office on April 30, 2003. Applicants attach herewith as Appendix A, a copy of the Supplemental Oath & Declaration filed on March 10, 2003 within the United States Patent and Trademark Office (USPTO) and a copy of the postcard stamped by the USPTO (Appendix B). Accordingly, Applicants request the Examiner to withdraw the rejections.

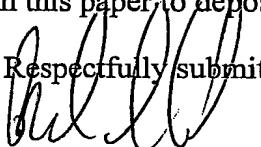
DOUBLE PATENTING

In the Office Action, the Examiner asserted that Claims 1, 2, 11, 16 and 17, are allegedly rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 5, and 6 of United States Patent No. 6,531,128.

In response, without conceding the correctness of the Examiner's position, Applicants attach herewith, as Appendix C, a Terminal Disclaimer. Accordingly, Applicants request the Examiner to withdraw the provisional rejection. In view of the above amendments and remarks it is submitted that the Application is now in condition for allowance. Accordingly, Applicants respectfully request the examiner to withdraw the rejections of the claims. Prompt notice of allowance is respectfully requested.

Please charge any fees associated with this paper to deposit account No. 05-0649.

Respectfully submitted,



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Dated: October 1, 2003

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